

REMARKS

Claims 13-15 and 21 stand rejected. Claim 13 has been amended and Applicants have added herein new claims 22-31, which were previously refused entry. Thus claims 13-15, 21, and 22-31 are pending.

Rejections under 35 U.S.C. §102

Claims 13-15 and 21 are rejected under 35 U.S.C. §102(e) as being anticipated by Davis et al. (2006/0149653). Claim 13 is the sole independent claim of the group.

Claim 13 as amended relates to a computer-implemented method of managing bid pricing information. The method comprises receiving transaction information and item data from a buyer, generating a bid invitation containing entries relating to the transaction information and item data, and making the bid invitation available to a plurality of potential bidders. The method further comprises receiving from one or more of the potential bidders bid responses containing a complex pricing structure and corresponding complex pricing amounts. The complex pricing structure is selected and supplied by each potential bidder, and the complex pricing structures supplied by two or more potential bidders include bids with multiple different pricing amounts. Moreover, each bidder provides multiple different proposals, with each proposal including a term set governing the proposal and a pricing set for the proposal. A winning bidder is selected based on the complex pricing amounts.

The claimed method thus provides a benefit in a bidding situation in that bidders can provide varying bid proposals in an effort to see which proposal best matches the needs of a buyer. As the pending application indicates, for example at paragraph 30, each bidder can address multiple different scenarios, with pricing structures provided for each scenario (see also paragraph 50-52). This goes well beyond the submission of a single proposal with discounts at different volume levels discussed in Davis. Using the Davis system, a bidder essentially provides a take-it-or-leave-it proposal, and if the buyer does not like the particular approach laid out by the bidder, the buyer may reject the bid out of hand. For example, a bidder in a proposal may provide a first volume discount at a volume of 100,000, whereas the buyer may not expect

to order more than 100,000 units and thus may be unimpressed by the proposal. Under the recited method of claim 13, in contrast, the bidders may provide different bidding scenarios, having different term sets and different pricing sets to match the term sets.

Thus, in the claimed method, a company can solicit bids in a much more flexible fashion -- it can, for example, list a general outline of terms relating to goods that it would like to purchase, and leave it to the bidders to fill in additional terms in a creative manner that best meets each bidder's capabilities. By this process, the soliciting organization can get prices that are better than if it had imposed all terms, and can also get creative terms from its bidders that it may never have envisioned. The provision of multiple price sets (not just varying prices for variables within a price set, such as volume) from the bidders permits such variation in terms, so that bidders can match pricing to terms, and they need not feel restricted to one particular price set with a corresponding single set of terms.

The Davis et al. reference does not include any such disclosure. Rather, it simply shows the submission of one pricing proposal, and submitting only one bid per bidder. In the paragraph to which the Office Action cites, Davis discusses single bids that include discounts. Such a bid contains only a single price term (the base price set by the bidder), and not multiple proposals, not multiple term sets, and not multiple price sets for those term sets, recited in the instant claims.

An advantage of Applicants' method is particularly apparent with regard to Davis' disclosure beginning at para [0147]: "the supplier is ... faced with entering in cost and movement for each individual item within the event at 615." There is no recitation of entering multiple pricing sets for each item. Further, at para. [0156], Davis states "the buyer is also empowered to negotiate with each proposal," and discusses methods for back-and-forth negotiation between buyer and seller regarding the price (singular) offered by the seller. An advantage of Applicants' method is that the buyer receives multiple pricing proposals or scenarios from a bidder. This reduces the back-and-forth negotiating, and hence may lead to a faster contract resolution, because the buyer has more options to choose from and can provide a gauge to the seller's pricing flexibility.

Invalidity for anticipation requires that there is no difference between the claimed invention and the referenced disclosure as viewed by a person of ordinary skill in the art. *Scripps Clinic and Research Foundation v. Genentech, Inc.*, 18 U.S.P.Q. 2d 1001 (Fed. Cir. 1991). Because Applicant's method allows bidding with complex pricing scenarios in multiple proposals having their own term sets and pricing sets and Davis does not, Applicants respectfully submit that the rejection under 35 U.S.C. §102(b) should be immediately withdrawn and a Notice of Allowance issued.

New Claims

Claims 22-31 have been added to more particularly define the invention. Claims 22-27 depend either directly or indirectly on independent claim 13. Claim 28 is independent, and claims 29-31 depend on claim 28. Support for the claims may be found, for example, at pages 5-8 of the original specification.

Certain of the claims, such as claims 22, 25, and 28, more clearly delineate manners in which a single bidder submits multiple different bids, where the bids have price sets and corresponding term sets – e.g., if the bidder is bidding less, they are going to provide less (e.g., a lower priced item, less service, etc.). The bidders themselves may specify such terms, thus, as described above, leaving the bid solicitor with more flexibility in seeking bids. In addition, the bidders may tailor their bids to their particular strengths, and may thus provide the buyer with greater values, service, and/or efficiency. As discussed above, the applied reference does not disclose nor even fairly suggest such features.

Certain of the claims, such as claims 23 and 29-31 recite that bid terms submitted by one bidder are made available to the other bidders, and those other bidders then submit prices for the terms. In this manner, if an owner likes the terms developed by a first bidder, that owner can circle back and see what sort of prices it can receive on those terms from the other bidders. Again, the Davis reference contains no such disclosure or suggestion, and these claims are independently patentable for this reason.

Yet other new claims, such as claims 26 and 31, recite aggregating the bids of the various bidders. Such aggregation can permit for easier comparisons of bids against each other. Also, the bid prices may be normalized so as to permit more of an apples-to-apples comparison between bids that have different prices and different terms. Again, the Davis reference neither discloses nor suggests in any way such features.

CONCLUSION

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment. Please apply any other charges or credits to deposit account 06-1050.

Applicant asks that all claims be examined in view of the amendment to the claims.

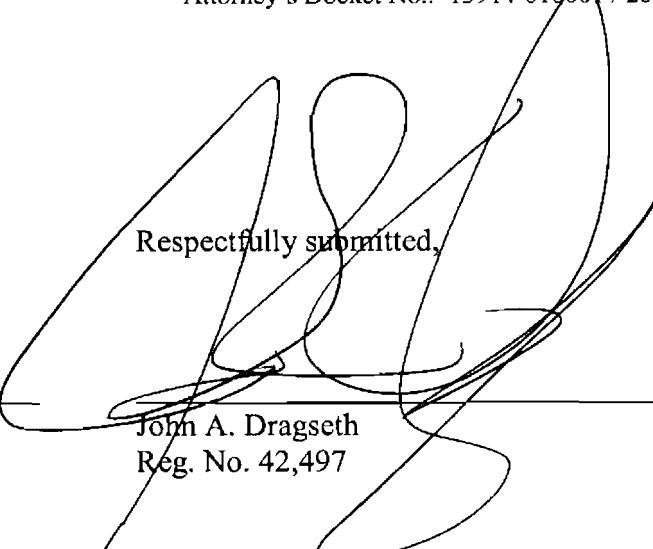
Please charge Deposit Account No. 06-1050 in the amount of \$1050 for the Petition for Extension of Time fee. Please apply any other charges or credits to deposit account 06-1050.

Applicant : Stefan Kiefer, et al.
Serial No. : 10/695,621
Filed : October 28, 2003
Page : 11 of 11

Attorney's Docket No.: 13914-01600 / 2003P00626
US

Respectfully submitted,

Date: 7/2/08


John A. Dragseth
Reg. No. 42,497

Fish & Richardson P.C.
60 South Sixth Street
Suite 3300
Minneapolis, MN 55402
Telephone: (612) 335-5070
Facsimile: (877) 769-7945

60511007.doc